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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STEVEN T. BREIDENBACH, MICHAEL L. RUDD, MICHELLE R. LEHMEIER, THOMAS R. MITCHELL, K. DOUGLAS GENNETTEN, BRIAN J. BROWN, and JERLYN R. CULP

Appeal 2009-004492
Application 10/046,347¹
Technology Center 2100

Before LANCE LEONARD BARRY, ST. JOHN COURtenay III, and JAMES R. HUGHES, *Administrative Patent Judges*.

HUGHES, *Administrative Patent Judge*.

DECISION ON APPEAL²

¹ Application filed October 26, 2001. The real party in interest is Hewlett-Packard Development Co., L.P. (App. Br. 2.)

² The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

The Appellants appeal from the Examiner's rejection of claims 1, 4, 6, 8-11, and 24-42 under authority of 35 U.S.C. § 134(a). Claims 2, 3, 5, 7, and 12-23 have been canceled. The Board of Patent Appeals and Interferences (BPAI) has jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

Appellants' Invention

Appellants invented a system and method for improving peripheral device performance and functionality. The system comprises a first peripheral device associated with a first software component and having a first functionality coupled to a second peripheral device associated with a second software component and having a second functionality, the peripheral devices together performing functionality in addition to the first and second functionalities and having a common user interface. (Spec. 2, ll. 3-15.)³

Representative Claims

Independent claims 1 and 24 further illustrate the invention. They read as follows:

1. A system for improving the performance of a plurality of peripheral devices, comprising:
 - a first peripheral device comprising a first software component and having a first functionality; and

³ We refer to Appellants' Specification ("Spec."); Appeal Brief ("App. Br.") filed July 26, 2007; and Reply Brief ("Reply Br.") filed December 20, 2007. We also refer to the Examiner's Answer ("Ans.") mailed October 30, 2007.

a second peripheral device coupled to the first peripheral device via a network, the second peripheral device comprising a second software component and having a second functionality, the second peripheral device being coupled to the first peripheral device without being directly connected to an intermediate computing device positioned along the communication path between the peripheral devices, the first and second peripheral devices together performing a third functionality in addition to the first and second functionalities;

wherein the first peripheral device comprises a peripheral device display on which can be presented a graphical user interface that presents the third functionality to a user for selection.

24. A method practiced by a personal computer (PC) for providing additional functionality from peripheral devices, the method comprising:

searching for and identifying peripheral devices that are accessible to the PC;

determining the capabilities of each identified peripheral device using the PC; and

presenting to the user with the PC a functionality that is available through combination of the capabilities of the identified peripheral devices, the functionality being a functionality that is not independently provided by the identified peripheral devices.

References

The Examiner relies on the following reference as evidence of unpatentability:

Casey	US 6,452,695 B1	Sept. 17, 2002 (filed Apr. 24, 1998)
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Brockway US 6,789,111 B1 Sept. 7, 2004
(filed Dec. 9, 1999)

Wireless Networks, Future Computer Environments Group of Georgia Institute of Technology, 1-2 (May 27, 1995) (available at <http://www.cc.gatech.edu/fce/hardware/wireless/wireless.html>) (hereinafter “Wireless Networks”).

Rejection on Appeal

The Examiner rejects claims 1, 3, 5, 6, and 8-11 under 35 U.S.C. § 102(e) as being anticipated by Casey.⁴

The Examiner rejects claim 4 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Casey and “Wireless Networks.”

The Examiner rejects claims 24-42 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Casey and Brockway.

ISSUES

Based on our review of the administrative record, Appellants’ contentions, and the Examiner’s findings and conclusions, the pivotal issues before us are as follows:

1. Does the Examiner err in finding the Casey reference discloses a second peripheral device coupled to a first peripheral device via a network?

2. Does the Examiner err in finding the Casey reference discloses software components of the first and second peripheral devices exchanging identity information over a network?

⁴ Appellants canceled claims 3 and 5 (App. Br. 2). We view the inclusion of claims 3 and 5 in the rejection to be harmless error.

3. Does the Examiner err in finding the Casey and Wireless Network references can properly be combined, and would have collectively taught or suggested the first and second peripheral devices coupled via a wireless network?

4. Does the Examiner err in finding the Casey and Brockway references would have collectively taught or suggested identifying and determining the capabilities of peripheral devices using a personal computer?

5. Does the Examiner err in finding the Casey and Brockway references would have collectively taught or suggested a peripheral device including auto recognition logic configured to receive response signals including identity and capabilities information from compatible peripheral devices on a network, and automatically present to a user a functionality option available only through a combination of the capabilities of the peripheral device and at least one compatible peripheral devices?

FINDINGS OF FACT (FF)

Casey Reference

1. Casey describes a system for digital copying utilizing multifunction peripheral devices (MFPs). The system includes an adapter device providing additional functionality to a peripheral device connected to and/or networked with other peripherals so that one peripheral functions as a MFP, e.g., enabling a printer to operate as a digital copier for a connected image input device. (Col. 1, ll. 8-14, 27-36, 46-48, 66-67; col. 2, ll. 1-3.) Casey describes various peripherals including a printer (element 200) and an image input device (element 300), as well as an adapter device (element

100) that interconnects the printer and image input device. (Col. 2, l. 55 to col. 3, l. 5; Fig. 1.) The adapter includes a control panel and user interface (element 110) that displays information and controls the functions of the interconnected peripherals. (Col. 3, ll. 3-5, 13-39; Fig. 2.)

2. Casey's adapter includes input-output (I/O) controllers that control the information exchange to and from the adapter. The I/O controllers may be combined into a single application specified integrated circuit (ASIC). In particular, Casey describes a small computer system interface (SCSI) I/O controller that controls information exchanged between the image input device and the control panel, and a peripheral connection interface (PCI) controller that controls information exchanged between the printer and the control panel. (Col. 3, l. 40 to col. 4, l. 5.)

3. Casey's adapter may be packaged as compact peripheral card device and separate control panel that may be integrated into either the printer or image input device. The integrated adapter allows direct connection between the peripheral devices. (Col. 4, l. 65 to col. 5, ll. 22.)

4. Casey's adapter downloads device driver software that includes several software modules and data structures. The data structures store the parameters used for controlling the printer and image input device. The data structures include the capabilities of the printer and the image input device. The adapter also acquires some of the information stored in the data structures from the printer and image input device. (Col. 5, ll. 36-48; col. 5, l. 59 to col. 6, l. 6.)

Wireless Networks Reference

5. Wireless Networks describes various wireless networking techniques and devices, and their respective advantages and capabilities. (pp. 1-2.)

Brockway Reference

6. Brockway describes a client-server system for automatically detecting and installing peripheral devices. (Col. 1, ll. 7-10; col. 2, ll. 16-23.) When Brockway's system detects a new peripheral device connected to the client, the client sends information about the device, such as a peripheral identifier, to the server. (Col. 2, ll. 49-67; col. 3, ll. 17-25.) Brockway describes an embodiment of the system as a networked personal computer having a printing subsystem (element 64) including an automatic detection unit (element 68) that detects peripheral devices connected to the client/server system. (Col. 4, ll. 58-62; Fig. 2.)

7. Brockway describes the automatic peripheral detection process for two types of systems, a "Plug and Play" system having a Plug and Play subsystem, and a system without a Plug and Play subsystem. In Brockway's Plug and Play system, the client automatically detects a peripheral, receives information from the peripheral (e.g., an identifier, device model number, and manufacturer), and sends the information to the server. (Col. 6, ll. 4-24.) In Brockway's system without a Plug and Play subsystem, the server polls (sends a periodic request to) the client to determine if a new peripheral device has been connected. The client polls its I/O ports, detects if a new peripheral device has been connected, receives information about the device

(including a peripheral identifier), and sends the information to the server. (Col. 2, ll. 49-67; col. 7, ll. 12-43; col. 8, ll. 12-29.)

ANALYSIS

Issue 1: Rejection of Claims 1 and 6 under § 102

Appellants contend that the Casey reference does not disclose (or “teach”) “first and second peripheral devices that are coupled to each other ‘via a network’.” (App. Br. 9; *see* App. Br. 9-11; Reply Br. 2-4.) The Examiner finds that the Casey reference discloses each feature of Appellants’ claim 1 and provides a detailed explanation as to why Appellants’ arguments fail to overcome the Examiner’s anticipation rejection, specifically, that Casey’s describes first and second peripheral devices coupled by a network. (Ans. 3-4, 10-12.)

Based on these contentions, we decide the question of whether the Examiner erred in finding the Casey reference discloses a first and a second peripheral device coupled via a network. After reviewing the record on appeal, we agree with the Examiner’s findings that Casey discloses first and second peripheral devices coupled via a network, and we therefore affirm the Examiner’s anticipation rejection of independent claim 1 and dependent claim 6.

The dispute before us hinges on the disagreement of Examiner and Appellants as to what constitutes a “network,” and the interpretation of this term is critical to resolving this dispute. Thus, we begin our analysis by construing Appellants’ disputed claim limitation. We give claim terminology the “broadest reasonable interpretation consistent with the [S]pecification” in accordance with our mandate that “claim language should

be read in light of the [S]pecification as it would be interpreted by one of ordinary skill in the art.” *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004) (citations omitted).

Appellants do not explicitly define a network in their claim or in their Specification. Appellants, however, assert that networked devices (devices connected by a network) must be “configured for network communications” (App. Br. 10) and/or allow a plurality of devices to communicate among each other through “a network architecture . . . includ[ing] various ‘network’ equipment” (Reply Br. 3). We, however, do not construe a network so narrowly. A “network” in its broadest reasonable interpretation is simply “an interconnection of various electrical elements.” *A Dictionary of Computing, Fourth Ed.*, p. 327, Oxford Univ. Press (1996). In the computer related arts, a network is commonly defined as “[a] structured connection of computer systems and/or peripheral devices, each remote from the others, exchanging data as necessary to perform the specific function of the connection.” Rudolf F. Graf, *Modern Dictionary of Electronics*, Seventh Ed., Elsevier Newnes (1999). Put simply, we broadly but reasonably construe a network as “[t]he connection of two or more computers or peripheral devices to each other.” *The Designer’s Lexicon: The Illustrated Dictionary of Design, Printing, and Computer Terms*, p. 63, Chronicle Books (February 1, 2000). This construction is consistent with the cited references, Appellants’ Specification, and the knowledge of those skilled in the art at the time of Appellants’ invention.

As detailed in the Findings of Fact section *supra*, Casey discloses an adapter device that may be integrated with a peripheral device and which provides additional functionality to the peripheral device when connected to

and/or networked with other peripherals. Specifically, Casey describes an adapter integrated into either a printer or an interconnected image input device such as a camera, the adapter including a control panel and user interface that displays information and controls the functions of the interconnected peripherals, and the integrated adapter and printer having additional functionality to operate as a digital copier for the image input device. Casey further describes that the adapter includes I/O controllers that control the information exchange to and from the adapter, and in particular, Casey describes a SCSI controller that controls information exchanged between the image input device and the control panel integrated in the printer. (FF 1-3.) Thus, we find that Casey discloses “a second peripheral device coupled to [a] first peripheral device via a network,” as recited in Appellants’ claim 1.

We find Appellants’ contrary arguments unpersuasive. Appellants appear to argue that the network recited in the claim requires some additional un-recited features – that it is configured for network communications (App. Br. 10), and/or that it includes network equipment and utilizes a network protocol (Reply Br. 3). But, as we explain *supra*, nothing in the claim language necessitates such a narrow reading of the claim, and we do not agree with such a narrow construction of the limitation. Appellants’ arguments are not commensurate with the scope of their claim.

We, therefore, find that Casey discloses the disputed feature of Appellants’ independent claim 1. Appellants do not separately argue dependent claim 6. Accordingly, we select independent claim 1 as representative of claim 6, and we find claim 6 falls with representative claim

1. It follows that Appellants do not persuade us of error in the Examiner's anticipation rejection of claims 1 and 6.

Issue 2: Rejection of Claim 8 under § 102

Appellants, contend that Casey does not disclose ("teach") "software components of first and second peripheral devices that 'exchange' information pertaining to their identifier over a network." (App. Br. 11; *see* App. Br. 11-12.) The Examiner finds that the Casey reference discloses the disputed feature of Appellants' claim 8. (Ans. 4, 11-12.) Accordingly, we decide the question of whether the Examiner erred in finding the Casey reference discloses software components of the first and second peripheral devices exchanging identity information over a network.

After reviewing the record on appeal, we agree with Appellants that Casey does not disclose the disputed features. Specifically, the Examiner cites to Casey at col. 3, ll. 3-8, as disclosing the disputed feature. The cited portion of Casey states that: the network installs device driver software in the adapter, the adapter stores the driver software, and the adapter operates the devices (printer and image input device) utilizing the driver software. We do not understand the cited portion of Casey to describe the peripherals (the printer and image input device) to disclose software in the peripherals (printer and image input device) exchanging identity information. Nowhere in our review of Casey do we find any such disclosure.

Casey does not explicitly or inherently describe software in the peripherals exchanging identity information. Rather, Casey describes a PCI controller controlling information exchanged between the control panel and the printer, and a SCSI controller controlling information exchanged

between the control panel integrated in the printer and the image input device. (FF 2-3.) Casey also describes dynamically acquiring data structure information. (FF 4.) Although not explicitly described, it is inherent that the control panel in the adapter sends commands to the peripherals, and that there must be some exchange of identifying information from the peripherals to the adapter (control panel) – e.g., as is known in the art, SCSI command protocols assign an identifier to each device on the SCSI bus. However, there is no disclosure of the peripherals exchanging identity information, through the adapter or otherwise. At most Casey describes a peripheral (image input device) sending identity information to the adapter integrated with another peripheral (the printer).

Thus, based on the record before us, we find Casey fails to disclose, all the features of Appellants' claim 8. Appellants' claims 9-11 depend from claim 8. Therefore, Appellants have persuaded us of error in the Examiner's anticipation rejection of claims 8-10, and we must reverse the Examiner's anticipation rejection of these claims.

Issue 3: Rejection of Claim 4 under § 103

Appellants, reiterate their arguments with respect to claim 1 *supra*, and contend that Wireless Networks does not remedy the deficiencies of the Casey reference. Appellants further contend that Casey teaches “network capabilities,” and that “a person having ordinary skill in the art would not through common sense think to add wireless network capability” because “such capability is unnecessary in Casey’s system due to the presence of the adapter device 100 and the addition of such capability would significantly increase the cost of both the image input device 300 and the printer 200.”

(App. Br. 14.) The Examiner finds that the Casey reference teaches peripherals connected by a network (*see* discussion of claim 1, *supra*), the Wireless Networks reference teaches wireless networking techniques, and that “[i]t would have been obvious for one skilled in the art at the time of the invention to learn from the ‘Wireless Network’ to implement a means wherein a network would be wireless” (Ans. 6). (Ans. 5-6.) Based on these contentions, we decide the question of whether the Examiner erred in finding the Casey and Wireless Networks references can properly be combined, and would have collectively taught or suggested the first and second peripheral devices coupled via a wireless network.

After reviewing the record on appeal, we agree with the Examiner’s findings and conclusions that the combination of Casey and Wireless Networks describes peripheral devices coupled via a wireless network, and we therefore affirm the Examiner’s obviousness rejection of claim 4. Specifically we find, for the reasons set out with respect to claim 1 *supra*, that the Casey reference teaches peripheral devices connected by a network. We also find that Wireless Networks reference teaches wireless networking techniques and devices, and their respective advantages and capabilities. (FF 5.)

Thus, we conclude, as did the Examiner, that it would have been obvious to an ordinarily skilled artisan at the time of Appellants’ invention to combine the Casey and Wireless Networks references because combining Casey’s teaching of peripherals connected by a network with the teaching of creating wireless network connections in Wireless Networks is tantamount to the predictable use of prior art elements according to their established functions – an obvious improvement. *See KSR Int’l Co. v. Teleflex Inc.*, 550

U.S. 398, 417 (2007). Although ultimately unnecessary to our analysis, we also find that the Examiner articulates a rationale, described in Wireless Networks – increased convenience and efficiency – for combining the Casey and Wireless Networks references based on “some rational underpinning to support the legal conclusion of obviousness.” *KSR*, 550 U.S. at 418 (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)).

We are not persuaded by Appellants’ arguments that the prior art combination would not occur to a skilled artisan because wireless connectivity is unnecessary (as Casey already describes peripheral connectivity), and would significantly increase cost. (App. Br. 14.) Appellants provide no persuasive evidence to support their arguments. Further, Appellants attempt to attack the references individually, instead of addressing the combination of references. See *In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986) (citing *In re Keller*, 642 F.2d 413, 425 (CCPA 1981)) (One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references.) It follows that Appellants have not persuaded us of error in the Examiner’s obviousness rejection of dependent claim 4.

Issue 4: Rejection of Claims 24-37 under § 103

Appellants contend that the Casey and Brockway references do not teach or suggest each of the features recited in Appellants’ independent claims 24 and 32. (App. Br. 15-18.) Specifically, the Appellants contend that the Casey reference does not disclose or teach that its adapter device comprises a personal computer (PC) (App. Br. 15-16; Reply Br. 5-7), and that the combination of Casey and Brockway does not teach identifying and

determining the capabilities of peripheral devices using a personal computer (App. Br. 16-18; Reply Br. 7). The Examiner finds that the Casey reference teaches a PC and presenting the user of a PC with functionality available through the combination of peripherals, and Brockway teaches automatic detection of peripherals including identifying and determining peripheral capabilities. (Ans. 6-7, 12-14.) Accordingly, we decide the question of whether the Examiner err in finding the Casey and Brockway references would have collectively taught or suggested identifying and determining the capabilities of peripheral devices using a personal computer.

After reviewing the record on appeal, we agree with Appellants that the combination of Casey and Brockway does not teach or suggest the disputed features. Specifically, we agree with Appellants that Casey does not disclose, teach, or suggest that its adapter device comprises a PC. The Examiner takes the alternative, and in our view mutually exclusive, positions that Casey's adapter is a peripheral device (Ans. 14; *see* FF 3) and a PC (Ans. 6-7, 12-14). Although we broadly construe claim terminology, our construction must also be reasonable. We cannot agree with the Examiner's overly broad interpretation of a PC as simply any device "which stores and processes information" (Ans. 13) or even a device including "a processor, memory and input/output controllers" (Fin. Rej. 11), in view of the Examiner's alternative construction that Casey's adapter is a peripheral device (Ans. 14). Nowhere in Casey do we find any description of the disclosed PC interacting with the peripherals. Rather, the only mention of the PC is to download software to the adapter. (Casey, col. 3, ll. 9-12.) Brockway does not cure the deficiency of Casey.

We therefore find that the combination of Casey and Brockway would not have taught or suggested the feature of identifying and determining the capabilities of peripheral devices using a personal computer. Thus, based on the record before us, we find that the Casey and Brockway references do not collectively teach or suggest each feature of Appellants' independent claims 24 and 32.

Thus, for the reasons discussed *supra*, Appellants have persuaded us of error in the Examiner's obviousness rejection of claim 24 (and 32).

Appellants argue dependent claims 25-31 and 33-37 together with their respective base claims (independent claims 24 and 32). (App. Br. 18.) Therefore, claims 24-37 stand together; and Appellants have also persuaded us of error in the Examiner's obviousness rejection of claims 25-31 and 33-37. Accordingly, we must reverse the Examiner's anticipation rejection of claims 24-37.

Issue 5: Rejection of Claims 38-42 under § 103

Appellants contend that the Casey and Brockway references do not teach or suggest each of the features recited in Appellants' independent claim 38. (App. Br. 19-20.) Specifically, Appellants contend that the Casey reference does not disclose, teach, or suggest that its adapter device is a peripheral device "with capabilities to present a functionality option to a user that is only available through combination of the capabilities of the peripheral device and another peripheral device." (App. Br. 19.) Appellants also contend that Brockway does not disclose, teach, or suggest "obtaining information as to the 'capabilities' of a peripheral device," or "that such obtaining could be performed by a 'peripheral device.'" (App. Br. 19.) The

Examiner finds that the prior art teaches each feature of Appellants' claim 38 and maintains that the claim is properly rejected. (Ans. 8-9, 13-14.) Specifically, the Examiner finds that Casey teaches the adapter "can represent a peripheral device" (Ans. 14), and that Brockway teaches determining capabilities of peripheral devices (Ans. 8-9, 13). Based on these contentions, we decide the question of whether the Examiner erred in finding the Casey and Brockway references would have collectively taught or suggested a peripheral device including auto recognition logic configured to receive response signals including identity and capabilities information from compatible peripheral devices on a network, and automatically present to a user a functionality option available only through a combination of the capabilities of the peripheral device and at least one compatible peripheral devices.

After reviewing the record on appeal, we agree with the Examiner's findings that the combination of Casey and Brockway teaches the disputed features. Specifically, we find that Casey describes that its adapter provides additional functionality to a peripheral device connected to and/or networked with other peripherals (FF 1), which we find equivalent to – "automatically present[ing] a functionality option to a user that is only available through combination of the capabilities of the peripheral device and at least one of the compatible peripheral devices" – as recited in Appellants' claim 38. We also find that Casey describes its adapter may be packaged as compact peripheral card device that may be integrated into a peripheral device. (FF 3.) We further find Brockway describes automatically detecting, receiving information related to, and installing peripheral devices. Brockway explicitly describes receiving information related to a newly connected

peripheral device, such as a peripheral identifier, device model number, and manufacturer. (FF 6-7.) We find, as did the Examiner (Ans. 13), that a skilled artisan would have understood Brockway's information as conveying the capabilities of the connected peripheral device, especially in view of Casey's teaching of its adapter acquiring and storing information from connected peripherals in data structures, and that the data structures storing parameters used for controlling the peripheral devices including the capabilities of the devices. (FF 4.) Thus, we find that the Casey and Brockway references would have collectively taught or suggested a peripheral device including auto recognition logic configured to receive response signals including identity and capabilities information from compatible peripheral devices on a network, and automatically present to a user a functionality option available only through a combination of the capabilities of the peripheral device and at least one compatible peripheral devices, as recited in Appellants' claim 38.

We conclude, as did the Examiner, that it would have been obvious to an ordinarily skilled artisan at the time of Appellants' invention to combine the Casey and Brockway references because combining Casey's teaching of an adapter integrated into a peripheral and providing additional functionality with Brockway's teaching obtaining, identifying, and capabilities information for connected peripherals is tantamount to the predictable use of prior art elements according to their established functions – an obvious improvement. *See KSR*, 550 U.S. at 417.

We are not persuaded by Appellants' arguments that Casey describes that its adapter, but not its peripheral devices, presents the functionality option (App. Br. 20), and that Brockway does not disclose a peripheral

device, but instead a computer, receiving peripheral information (App. Br. 19). Here, Appellants again attempt to attack the references individually, instead of addressing the combination of references. *See In re Merck*, 800 F.2d at 1097. It follows that Appellants have not persuaded us of error in the Examiner's obviousness rejection of independent claim 38.

Appellants' do not separately argue dependent claims 39-42. (App. Br. 20.) Therefore, we select independent claim 38 as representative of dependent claims 39-42. Consequently, for the reasons discussed with respect to claim 38 *supra*, Appellants have not persuaded us to find error in the Examiner's obviousness rejection of dependent claims 39-42. *See* 37 C.F.R. § 41.37(c)(1)(vii) (2007). Thus, we affirm the Examiner's obviousness rejection of Appellants' claims 38-42.

CONCLUSIONS OF LAW

Appellants have not shown that the Examiner erred in rejecting claims 1 and 6, under 35 U.S.C. § 102(e) for the reasons stated *supra*.

Appellants have not shown that the Examiner erred in rejecting claims 4 and 38-42 under 35 U.S.C. § 103(a) for the reasons stated *supra*.

Appellants have shown that the Examiner erred in rejecting claims 8-10 and claims 24-37 under 35 U.S.C. § 103(a) for the reasons stated *supra*.

DECISION

We affirm the Examiner's rejection of claims 1 and 6 under 35 U.S.C. § 102(e).

We affirm the Examiner's rejection of claims 4 and 38-42 under 35 U.S.C. § 103(a).

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We reverse the Examiner's rejections of claims 8-10 and 24-37 under 35 U.S.C. § 103(a).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

rwk

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